

California Regional Water Quality Control Board
North Coast Region

Board Resolution No. R1-2004-0042

Declining Request for Order Requiring Dredging in the Elk River

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. On October 2, 2003, William G. Bertain, Esq., on behalf of 64 Elk River residents, submitted a petition requesting the Regional Water Board to issue an order to Pacific Lumber Company, requiring dredging of sediment deposits from the North Fork Elk River, South Fork Elk River and Main Stem Elk River, and to issue Waste Discharge Requirements to prevent further discharges.
2. The issues raised in this request have been discussed, and comments taken, by the Regional Water Board during the regularly scheduled Regional Water Board meetings in November and December of 2003 and February of 2004.
3. In response to ongoing staff investigations and analyses, State Water Resource Control Board orders, and resident requests such as the one at issue herein, the Regional Water Board has directed staff to begin work on watershed-wide Waste Discharge Requirements in the above-noted watersheds. This work is under way.
4. The Executive Officer has issued three Cleanup and Abatement Orders (CAOs) to Pacific Lumber Company, to date, requiring remediation activities in the subject watershed, and the Regional Board has directed that further CAO requirements be pursued, and reported back to the Regional Water Board.
5. In partial response to the petition, Regional Water Board staff has met with local, regional, state and federal agency representatives, and other interested parties, to investigate shorter-term measures that could be implemented to alleviate flooding, as well as evaluations of dredging options. It was determined that any activities involving channel modifications would require permits and a feasibility study. Such a feasibility study would evaluate, among other things, the nature, location and extent of aggradation contributing to nuisance flooding, and effect of channel roughness elements and channel obstructions, hydraulic analyses considering channel geometry and stream discharge. A feasibility study would also require a consideration of the potential adverse environmental effects of dredging itself. The dialogue with the interested and affected agencies and individuals elicited repeated and broad concerns over the potentially adverse effects of dredging activities.
6. Regional Water Board staff actively sought a local sponsor to partner with the United States Army Corps of Engineers, in order to secure the appropriate level of expertise, authority and funding to pursue the feasibility study and dredging options. No willing local sponsor was identified.

7. Before any dredging project is pursued, further baseline information is needed to determine the feasibility of any project.
8. On May 5, 2004, representatives of Pacific Lumber Company made oral commitments to Regional Board staff that: a) the company agrees that a flooding assessment is needed; b) the company will help with the flooding assessment; and c) that the company will release information that it presently possesses regarding the flooding.
9. The Executive Officer has the ongoing delegated authority to require the information needed to do a flooding assessment under Water Code section 13267(b), and to require cleanup activities under Water Code section 13304.
9. In a letter dated May 6, 2004, the Pacific Lumber Company verified their commitment to participate in a flooding assessment by providing both logistical and technical assistance in assessing the spatial extent and frequency of flooding, the factors that are causing the flooding, help identify potential remedies to reduce flooding, including. Dredging, sediment source control, or other options identified by the assessment.

THEREFORE, at this time, the Regional Water Board declines the petition to issue an order requiring Pacific Lumber Company to embark on dredging activities in the Elk River. The Board further directs the Executive Officer to continue to work with Pacific Lumber Company to compile the information necessary to conduct a flooding assessment, using whatever legal tools or agreements that are, in her best judgment, most effective in obtaining that data in a prompt, accurate and efficient manner.

Certification:

I, Catherine Kuhlman, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, North Coast Region, on May 12, 2004.

Catherine Kuhlman
Executive Officer